

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CAROLYN LA BAUVE HAMPTON,  
individually,  
  
Plaintiff,

Case No. 2:20-cv-00681-KJD-BNW

**ORDER GRANTING DEFENDANT'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

v.

ALBERTSON'S, LLC, d/b/a ALBERTSON'S;  
SAFEWAY, INC. d/b/a ALBERTSON'S;  
ALBERTSON'S STORES SUB LLC; AB  
ACQUISITION LLC; TOM SCHLAEN; DOES  
1 through 100 and ROE CORPORATIONS 1  
through 100, inclusive,

Defendants.

Before the Court is Defendants' Motion for Partial Summary Judgment (ECF #20). Plaintiff responded in opposition (ECF #21) and Defendants replied (ECF #22).

**I. Factual and Procedural Background**

Plaintiff Carolyn La Bauve Hampton ("Hampton") brought this action against Defendants Albertson's, LLC, d/b/a Albertson's ("Albertson's"), Safeway, Inc. d/b/a Albertson's ("Safeway"), Albertson's Stores Sub LLC ("Store Sub"), AB Acquisition LLC ("AB Acquisition"), and Tom Schlaen ("Schlaen") after a slip and fall that occurred at Albertson's store. (ECF #20, at 2). According to Hampton, she slipped and fell on liquid in the store lobby. Id. Surveillance video shows that Albertson's employee Summer Smith ("Smith") swept the area in which Hampton fell approximately 29 minutes before the incident. Id. at 2–3. Hampton brought five causes of action against Defendants: one claim of negligence against Schlaen; and one claim of negligence, one claim of negligent hiring, one claim of negligent training and supervision, and one claim of negligent retention against Albertson's, Safeway, Store Sub, and AB Acquisition. Id. at 7–14. Defendants brought the instant motion for partial summary

1 judgment, arguing that Hampton has not provided evidence to support her negligent hiring,  
2 training, supervision, and retention claims.

3 II. Legal Standard

4 Summary judgment may be granted if the pleadings, depositions, answers to  
5 interrogatories, and admissions on file, together with affidavits, if any, show that there is no  
6 genuine issue as to any material fact and that the moving party is entitled to a judgment as a  
7 matter of law. See FED. R. CIV. P. 56(a); see also Celotex Corp. v. Catrett, 477 U.S. 317, 322  
8 (1986). The moving party bears the initial burden of showing the absence of a genuine issue of  
9 material fact. See Celotex, 477 U.S. at 323. The burden then shifts to the nonmoving party to set  
10 forth specific facts demonstrating a genuine factual issue for trial. See Matsushita Elec. Indus.  
11 Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

12 All justifiable inferences must be viewed in the light most favorable to the nonmoving  
13 party. See Matsushita, 475 U.S. at 587. However, the nonmoving party may not rest upon the  
14 mere allegations or denials of his or her pleadings, but he or she must produce specific facts, by  
15 affidavit or other evidentiary materials as provided by Rule 56(e), showing there is a genuine  
16 issue for trial. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256 (1986). “Where evidence  
17 is genuinely disputed on a particular issue—such as by conflicting testimony—that ‘issue is  
18 inappropriate for resolution on summary judgment.’” Zetwick v. Cnty. of Yolo, 850 F.3d 436,  
19 441 (9th Cir. 2017) (quoting Direct Techs., LLC v. Elec. Arts, Inc., 836 F.3d 1059, 1067 (9th  
20 Cir. 2016)). “Credibility determinations, the weighing of the evidence, and the drawing of  
21 legitimate inferences from the facts are jury functions, not those of a judge.” Anderson, 477 U.S.  
22 at 255.

23 III. Analysis

24 A. Negligent Hiring

25 “The tort of negligent hiring imposes a general duty on the employer to conduct a  
26 reasonable background check on a potential employee to ensure that the employee is fit for the  
27 position.” Burnett v. C.B.A. Security Service, 820 P.2d 750, 752 (Nev. 1991). “To succeed on a  
28 claim for negligent hiring, retention, and supervision of employees, a plaintiff must establish

1 that: (1) defendant owed a duty of care to the plaintiff; (2) defendant breached that duty by  
 2 hiring, retaining, and/or supervising an employee even though defendant knew, or should have  
 3 known, of the employee's dangerous propensities; (3) the breach was the cause of plaintiff's  
 4 injuries; and (4) damages. Peterson v. Miranda, 57 F.Supp.3d 1271, 1280 (D. Nev. 2014) (citing  
 5 Hall v. SSF, Inc., 930 P.2d 94, 99 (Nev. 1996)).

6 Hampton has not provided any evidence that Smith had dangerous propensities or that  
 7 Defendants knew, or should have known, of them prior to hiring Smith. Without such evidence,  
 8 Hampton cannot succeed on her negligent hiring, retention, and supervision of employee claims.  
 9 In her response, Hampton does not point to any evidence that would support this element of the  
 10 tort. Instead, she argues that a reasonable jury could find that Smith was not properly trained.  
 11 While that may be true, it does not help her establish the other element of her claim. Without the  
 12 evidence, Hampton has not established that there is a genuine issue of material fact for trial and  
 13 summary judgment is appropriate.

14 B. Negligent Training/Supervision

15 In addition to the duty to conduct reasonable background checks prior to hiring,  
 16 employers have a "duty to use reasonable care in the training, supervision, and retention of  
 17 [their] employees to make sure that the employees are fit for their positions." Reece v. Republic  
 18 Servs., Inc., No. 2:10-cv-00114-GMN-RJJ, 2011 WL 8683863, at \*11 (D. Nev. Mar. 10, 2011).  
 19 This duty is separate from the duties of hiring. "The elements of a claim for negligent training  
 20 and/or supervision are: (1) a general duty on the employer to use reasonable care in the training  
 21 and/or supervision of employees to ensure that they are fit for their positions; (2) breach; (3)  
 22 injury; and (4) causation." Id. "In order to prevail on a negligent training or supervision claim,  
 23 the plaintiff must allege facts specifically indicating how the employer violated its duty. Id.

24 The Court finds that Hampton has not alleged facts specifically indicating how  
 25 Defendants breached their duty to train, supervise, or retain Smith or any other employee. In her  
 26 complaint, Hampton merely alleges that Defendants breached their duty when they "failed to  
 27 properly train and supervise employees" and "negligently retained employees, even though they  
 28 knew, or should have known, that the employees lacked the qualifications and/or competence for

1 their position.” (ECF #1-2, at 12–12). In her response, Hampton argues that a reasonable jury  
2 could find that “Defendants’ employees were not properly trained to perform sweeps, . . .  
3 completed insufficient sweeps, that sweeps were not overseen by supervisors, and that  
4 employees were not looking for hazards on the floors as directed.” (ECF #21, at 3). Hampton  
5 points to the surveillance footage that does not show a spill during the one-hour period prior to  
6 the incident, but does show multiple employees walking around the area and a sweep of the area.  
7 Id. at 5. Additionally, Hampton shows the deposition testimony of Defendants’ 30(b)(6)  
8 representative Jody Kay Wood (“Wood”). When asked about the policy to log when the routine  
9 sweeps were complete, Wood stated “I imagine they just virtually see that they’re doing it.” Id.  
10 at 7).

11 The broad allegations are not specific enough to survive summary judgment and  
12 Hampton has not provided evidence to support her claims. The allegations are not supported by  
13 evidence that the training or supervision was insufficient, only that a reasonable jury could find  
14 that the training was insufficient. Even the deposition testimony that Hampton provides does not  
15 support the claim. Hampton argues that because Wood stated in her deposition that she imagines  
16 the managers visually observe that the sweeps were being completed, Defendants’ supervision  
17 and training must have been negligent. However, in her deposition Wood also stated that after  
18 completing a sweep, the employees log the completion of their sweeps with their employee ID  
19 numbers. (ECF #21-4, at 6). While managers may observe the completion of the sweeps, there is  
20 also a system in place to log the completion of the sweeps.

21 Additionally, Hampton has not alleged facts or produced evidence to show that  
22 Defendants negligently retained Smith. There is nothing in the record to show that Defendants  
23 knew or should have known that Smith posed a hazard but retained her anyway. Without specific  
24 evidence or allegations of how Defendants breached their duty to train and supervise Smith or  
25 breached a duty by retaining her, Hampton’s claim cannot continue. Therefore, summary  
26 judgment is granted to Defendants.


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1 IV. Conclusion

2 Accordingly, IT IS HEREBY ORDERED that Defendants' Motion for Partial Summary  
3 Judgment (ECF #20) is **GRANTED**.

4 Dated this 5th day of July, 2022.

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7 Kent J. Dawson  
8 United States District Judge  
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